

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, BY AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE III, "OVERLAY DISTRICTS," CREATING DIVISION 7 ENTITLED "CULTURAL ARTS NEIGHBORHOOD DISTRICT OVERLAY (CANDO), BY INCLUDING "LOCATION AND PURPOSE," AND "COMPLIANCE WITH REGULATIONS," INCLUDING MINIMUM AND AVERAGE UNIT SIZE FOR REHABILITATION AND NEW CONSTRUCTION PROJECTS, MIXED USE FLOOR AREA RATIO (FAR) INCENTIVES WHERE PERMITTED IN ORDER TO ACCOMMODATE AFFORDABLE HOUSING FOR CULTURAL WORKERS; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, the Blue Ribbon Committee appointed by Mayor David Dermer has been studying the creation of a Cultural Arts Neighborhood District Overlay (CANDO) that would encourage arts related businesses to establish in the district and create affordable housing for cultural workers; and

WHEREAS, the Blue Ribbon Committee proposed the boundaries for the CANDO district as 24th Street on the north; Lenox Avenue on the west; Lincoln Lane on the south and the Atlantic Ocean on the east; and

WHEREAS, the CANDO district contains numerous cultural arts venues, available housing stock, commercial storefronts, restored hotels, a large urban park and is home to numerous cultural festivals; and

WHEREAS, the goal for the creation of the CANDO district is to reverse the gentrification process of the district force artists, art galleries and cultural activities out of housing and workspace in the neighborhood; and

WHEREAS, at its May 14, 2007 Land Use and Development Committee recommended that an ordinance that creates this overlay district and its purpose and goals be drafted and referred to the Planning Board for a recommendation to the City Commission; and

WHEREAS, the amendments set forth below are necessary to accomplish all of the above objectives.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:

Section 1. That Chapter 142 of the City Code, entitled "Zoning Districts and Regulations," Article III, "Overlay Districts," Division 7 is hereby amended as follows:

DIVISION 7. “CULTURAL ARTS NEIGHBORHOOD DISTRICT OVERLAY (CANDO)

Section 142-854. Location and purpose.

The overlay regulations of this division shall apply to existing properties that are located in the subject district which general boundaries are 24th Street and North Lincoln Lane on the north; Meridian Avenue and Lenox Avenue on the west; South Lincoln Lane on the south and the Atlantic Ocean on the east.

The purpose in identifying this overlay district is to provide land-use incentives to property owners, developers and commercial businesses to create affordable housing for cultural workers and encourage arts-related businesses to establish within the district, and to create definitions and mandatory requirements for new construction and rehabilitation of housing units.

Section 142-855. Definitions.

For purposes for these regulations, the following definitions shall apply:

1. “Cultural arts workers” is defined as anyone who is an artist, or who works in any capacity within a visual or performing arts organization who meets Housing and Urban Development (HUD) guidelines for income eligibility for ~~moderate~~ income.
2. *Moderate Income:* Households whose incomes are between 51 percent and 80 percent of the median income for the area as determined by U. S. Department of Housing and Urban Development.

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Section 142-856. Compliance with regulations

The following overlay regulations shall apply to those areas of the subject CANDO district which have underlying zoning designations.

1. As specified in Chapter 118, Article X, “Historic Preservation,” applications for a building permit shall be reviewed and approved in accordance with Certificate of Appropriateness review procedures.
2. All development regulations and setback requirements in the underlying zoning district shall remain. However, the following exceptions shall apply:
 - a. Where the underlying zoning district regulations provide for an allowable increase in the Floor Area Ratio (FAR) for mixed use projects, 50% of such allowable FAR increase shall be set aside for housing for cultural arts workers that meet the ~~moderate~~ income guidelines set forth in Section 142-855 above.
 - b. Existing units being rehabilitated in the CANDO overlay district, where the cost of construction would require the units to comply with the minimum of 400 square feet and minimum average size of 550 square feet, be

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exempt from meeting the average unit size of 550 square feet if 25% of the units are reserved for ~~units for "cultural arts workers," as defined in section 142-855 above, who meet the income eligibility under the HUD guidelines for moderate income as set forth in 142-855 above.~~

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- c. New construction of mixed use projects in the CANDO district, where the underlying zoning regulations provide for an allowable increase in the Floor Area Ratio (FAR) for mixed use projects, 50% of such allowable FAR increase shall be set aside for the sale of units to cultural arts workers who meet income eligibility under HUD guidelines for moderate income and shall meet the minimum unit size of 550 square feet, but shall be exempt from meeting the average unit size of 800 square feet.
- d. New construction of "Live-Work" projects in the CD-2 zoning district of the CANDO District shall meet the residential parking requirements for zoning purposes if at least 25% of the "live-work" units ~~are set aside to "cultural arts worker," as defined in section 142-855 above, who meet the income eligibility under HUD guidelines for moderate income set forth in 142-855 above.~~ For purposes of this section, a "live-work" unit is defined as a unit containing both a residential and commercial component within the same unit.

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Section 142-857. Mandatory Criteria

Developments qualifying for the minimum unit size under this Division shall meet all of the following mandatory criteria:

1. At the time of development review, the property owner shall submit a statement of intent to construct housing for moderate income cultural arts workers in accordance with the regulations and guidelines in this Division.
2. A covenant running with the land restricting the use of the property for housing for ~~moderate income cultural arts workers for a period of no less than 30 years~~ shall be executed by the owner of the property, approved as to form and content by the city attorney, recorded in the public records of Miami-Dade County and shall be submitted prior to the issuance of a building permit. The declarations within the covenant are not severable. If a subsequent judicial determination invalidates the type of population, or the covenant, the city shall not issue a certificate of use and occupancy for a new use until the property owner satisfies the then applicable unit size regulations under this Code.
3. Should the property change from housing for moderate income cultural arts workers during the covenant period or thereafter, or other income-eligible population, the property shall comply with all applicable development regulations existing at the time of the proposed change, including but not limited to minimum and average unit sizes and parking requirements.
4. If after a two-year period, residential units set aside for cultural arts workers have not been sold, they shall be reserved for other income-eligible population.
5. The profits of the re-sale of residential units sold to cultural arts workers or other

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income-eligible population shall be restricted to the Consumer Price Index (CPI) at the time of resale.

SECTION 2. REPEALER.

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith be and the same are hereby repealed.

SECTION 3. CODIFICATION. It is the intention of the City Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 4. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and **ADOPTED** this _____ day of _____, 2007.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

City Attorney

Date

First Reading:
Second Reading:

Verified by: _____
Jorge G. Gomez, AICP
Planning Director

Underscore denotes new language

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